

LAKES REGION CABLE TELEVISION CONSORTIUM

Co-Chairmen:

David R. Caron
Administrator
Town of Gilford

Alan L. MacRae
Chairman, Cable
Advisory Committee
Town of Belmont

Scott Dunn
Administrator
Town of Alton

James Pitts
City Manager
City of Franklin

Bud Young
Cable Representative
Town of Gilmanton

Daniel McKeever
City Manager
City of Laconia

Peter Russell
Town Manager
Town of Meredith

Robert Belmore
Administrator
Town of New Durham

Joyce Johnson
Administrator
Town of Northfield

David Barker
Administrator
Town of Pittsfield

William Tobin
Selectman
Town of Sanbornton

Jim Shepard
Cable Representative
Town of Tilton

Paul Skowron
Town Manager
Town of Wolfeboro

Mail:
% Town of Gilford
47 Cherry Valley Road
Gilford, N.H. 03246
(603) 524-7438

January 7, 1994

Office of the Secretary
Federal Communications Commission
Washington, D.C. 20554

Comments Re: Notice of Proposed Rulemaking
ET Docket No. 93-7

The Lakes Region Cable Television Consortium ("Consortium") was formed in 1993 by 12 communities served by Community TV Corporation and/or Lakes Cablevision, Inc. ("Provider"). The member communities and their respective FCC Community Unit Codes are the cities of Franklin (8), Laconia (10), along with the Towns of Alton (122), Belmont (70), Gilford (9), Gilmanton (XX), Meredith (73), New Durham (158), Northfield (11), Pittsfield (90), Sanbornton (236), Tilton (12) and Wolfeboro (121).

The Consortium was formed with an eye towards streamlining all interaction between the cable provider and the communities it serves. With the passage of the Cable Television and Consumer Protection and Competition Act of 1992 ("Act"), a hotbed of activity has arisen around the issues raised by the "anti-buy-through" provisions of the Act, so called, and exactly what constitutes compliance with that segment of the Act.

The Consortium feels that the Commission clearly addresses a number of the issues and concerns raised by customers of the Provider in its Proposed Rulemaking. Specifically, the Consortium strongly supports ¶29 regarding "...in the clear" signal delivery technology...", ¶30 encouraging cable operators to "...provide all purchased channels simultaneously, in the clear..." and ¶33 regarding the encouragement of the cable operators to use "...delivery systems that eliminate the need for any additional equipment in the subscriber's premises..."

The Consortium's position has consistently been aligned with the beliefs set forth in the Proposed Rulemaking, particularly as they provide for the protection of consumers investments in "cable ready" televisions and vcrs. As interpreted by the Provider, the "anti-buy-through" provisions of the Act require the Provider to scramble their "extended basic tier" offerings to comply. The Consortium has steadfastly maintained that interpretation is not only incorrect, but inconsistent with the Commission's proposed rules and, further, with the intent of the Act.

The Consortium speaks fully in favor of the Proposed Rulemaking, and hopes that the Commission will act swiftly in moving ahead in this matter. In the interim, the Consortium would respectfully suggest that the Commission defer enforcement of any or all sections of the "anti-buy-through" provision of the Act which could be perceived by the cable industry as forcing them to alter their signals in such as manner as to comply, while at the same time inconveniencing their subscribers in any fashion.

In an effort to illustrate the situation which the Consortium's member communities

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face with the Provider, we are enclosing several pieces of correspondence typify our communications with the Provider.

Respectfully submitted,
LAKES REGION CABLE TELEVISION CONSORTIUM


David R. Caron
Co-Chairman


Alan L. MacRae
Co-Chairman

DRC-ALM/wp

LRCT0107.FCC

OFFICE OF SELECTMEN
(603) 524-7438
FAX (603) 524-1396



APPRAISAL OFFICE
(603) 524-3293

Recreation Center of New Hampshire

November 9, 1993

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Mr. Harmon White, President
Community TV Corporation
408 Union Avenue
Laconia, NH 03246

RE: Scrambling of Signals

Dear Mr. White:

We are writing to you today in our role as statutory Franchising Authority for the Town of Gilford, New Hampshire (the "Town"). It has come to our attention that Community TV Corporation ("Community") has released an "October Cable Newsletter," in which Community announced that it would commence scrambling its Satellite Service tier signals in January, 1994. The Town has once again started to receive complaints from residents who are angry and confused because of this policy. As I'm sure you know, this comes on top of Community's "July Cable News Bulletin", which created an outcry from literally hundreds of your subscribers who will be affected by such scrambling. Such scrambling will, at a minimum, inconvenience thousands of subscribers to cable television service in Gilford. Beyond inconvenience, scrambling will significantly impair the functioning of those subscribers' cable-ready television sets, cable-ready video-cassette recorders and remote-control devices. In many cases, these subscribers have spent hundreds or thousand of dollars to purchase state-of-the-art television technology. They now find themselves in a situation, not of their own making, in which much or all of this equipment is severely undermined. The Board of Selectmen oppose Community's plans to scramble these signals. It is also our belief that this is an unfair and inappropriate manner for Community to treat Gilford residents, many of them long-time cable subscribers. To this end, the Selectmen have several additional explicit concerns.

Mr. Harmon White
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First, while Community asserts that scrambling of the Satellite Service tier is the only way that it can comply with the requirements of the Cable Television Consumer Protection and Competition Act of 1992 (the "Cable Act of 1992"), the Board of Selectmen do not believe that this is necessarily the case. We believe that there are alternatives to such scrambling that should have been, and should be, considered by Community. While the Selectmen understand that the Cable Act of 1992 imposed a number of new requirements on Community, we do not agree with your interpretation of a number of these requirements.

Second, in July of this year, Community announced that it would commence scrambling its Satellite Service tier signals in August. After considerable hue and cry from subscribers, angry letters from municipalities, a lawsuit challenging the scrambling and lack of available converters in stock, Community decided to delay scrambling the Satellite Service tier. In fact, on September 10, 1993, Community petitioned the Federal Communications Commission ("FCC") for a waiver of the so-called Anti-Buy-Through provisions of the Cable Act of 1992. In that petition, Community asked for such a waiver until "it is able to provide addressable converters to all subscribers in its New Hampshire systems serviced by its headends in Laconia and Merrimack who want one, but no later than March 31, 1994." It is not clear from your October Newsletter that there are, in fact, addressable converters for all of Community's New Hampshire subscribers. Would you kindly verify in writing that this is the case.

Third, it is the Board of Selectmen's understanding that there are other cable television systems that are not necessarily scrambling satellite signals and have tried alternate means to implement the provisions of the Cable Act of 1992. Given the importance of this issue to subscribers, please let us know why some operators are not scrambling and thereby seem to be more sensitive to their subscriber's needs and interests than Community.

Fourth, the Board of Selectmen believes that Community has done an inadequate job in informing your subscribers about scrambling, how it will be accomplished, instructions regarding converters, etc. Given the considerable amount of confusion and anger already generated by your scrambling policy, the Board of Selectmen wants assurances that Community will implement any scrambling policy in a forthright and comprehensive manner. To this end, the Selectmen want to know the following:

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How and where will subscribers receive converters prior to any scrambling?

What happens if subscribers cannot receive converters prior to that date?

What instructions are available on the use of such converters?

Why have such instructions not been forwarded to all affected subscribers?

What alternatives to converters have been made available to subscribers?

How do such converters "interface" with subscribers' TV sets and VCR's?

What instructions has Community provided to subscribers regarding such interface?

Finally, would you please report to the Selectmen regarding: i) the number of subscribers in Gilford taking the Basic Service only, ii) the number of subscribers in Gilford taking the Satellite Service tier, and iii) the total number of subscribers in Gilford, as of October 1993.

The Board of Selectmen officially opposes Community's plans to scramble the Satellite Service tier, as contrary to the interests of Gilford cable subscribers. While the Board of Selectmen understands that the Cable act of 1992 requires cable operators to make a number of changes regarding service offerings, equipment, etc., it is the Board's belief that Community has likely misunderstood the requirements of the new federal law, as well as other laws and regulations, and has totally failed to explore with the Town possible alternatives to scrambling the Satellite Service tier.

While the Board will cooperate with Community on implementing applicable statutory requirements in a reasonable, fair and timely manner, we will do everything that we can do to protect the interests of Gilford cable televisions subscribers. To this end, the Board is officially notifying Community that its proposed scrambling of Satellite Service signals without providing all affected subscribers, at a minimum, with the

Mr. Harmon White
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requisite decoding devices, as well as notice regarding the cost and operation of such devices, is considered unlawful and improper. Given i) our concern for the interests of the thousands of cable television subscribers in the Town, ii) our disagreement with your interpretation of federal law and your overall scrambling policy and iii) the impending expiration of the Gilford Cable Television franchise, on May 20, 1994, we have asked our Town Administrator, David Caron, and other representatives of the Lakes Region Cable Television Consortium (the "Consortium") to meet with you to discuss these matters in more detail and reach agreement with you on possible solutions that will address the concerns of cable television subscribers in Gilford and other Consortium communities.

Would you kindly respond to this letter, in writing, within two (2) weeks of receipt, so that the Board of Selectmen can consider your response. In the meantime, please contact David Caron to schedule a meeting with him to discuss this matter.

Very truly yours,

Russell Dumas

Philip D. B. Bort

Robert A. Jordan

The Gilford Board of Selectmen,
as Franchising Authority

~~Return Receipt #P 840 102 330~~

cc: Peter J. Epstein, Esquire

*Given in hand to Mr. Harmon White
at Board of Selectmen Meeting 11-9-93
(over)*

**Lakes Region
Cable
Television
Consortium**

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Mail:

c/o Town of Gilford
47 Cherry Valley Road
Gilford, N.H. 03246

(603) 524-7438

December 10, 1993

Mr. Harmon White, President
Community TV Corporation
408 Union Avenue
Laconia, NH 03246

RE: Scrambling Issue

Dear Mr. White:

On behalf of the Lakes Region Cable Television Consortium, please accept my thanks for meeting with us to discuss the scrambling issue. I believe the exchange of information between Community TV Corporation and the Lakes Region Cable Television Consortium can only benefit your subscribers.

As we discussed, there are several items which require additional clarification in order for the Consortium to fully comprehend Community TV's rationale to scramble the extended tier level of your programming. In order to allow the Consortium membership to digest this information prior to our January 6 meeting, a response to these questions by December 27 would be greatly appreciated:

1) One of the technologies identified by the Consortium to insure compatibility with televisions and VCRs is interdiction. During our meeting, I believe that you stated that Community TV has continually reviewed this option and found it not to be financially feasible nor technically practical. Please outline in great detail the specific instances of your review of this technology, including the following:

- a) Date(s) of review
- b) Area(s) contemplated to be served.
- c) Type(s) of technology considered and identification of issues which rendered said technology impractical.
- d) Identification of capital and operating costs considerations.

2) The Consortium is operating with the understanding that Community TV now utilizes "trap" technology to prevent basic only subscribers from receiving the extended basic tier of service. It is our contention that Community TV can simply move the trap to a different frequency above the premium channels for those minimal number of "basic" only customers, thus rendering Community in compliance with the FCC's anti-buy through regulations.

a) Please confirm our understanding that this trap technology satisfies anti-buy through.

b) During our conversation, you set forth your opinion that experience tells you that problems with traps would be exacerbated when extensively used. Please explain.

c) Please identify the cost of the trap, life expectancy, installation expense, and other relevant maintenance issues.

d) Please confirm your understanding whether costs for trap technology is recoverable under the Cable Act and subsequent FCC regulations.

e) Please explain the review process utilized by Community TV which led to your current decision to not use trap technology.

There are a myriad of issues generated by the 1992 Cable Act which are faced by both the cable operator and franchise authority. We believe that our relationship should not become adversarial, but should correctly reflect the partnership between the operator and authority to provide quality service to the public.

You have continually expressed concerns about the "security" of the cable system. Please set forth in detail your specific concerns about the lack of security utilizing the trap, interdiction and scrambling options. In recognition of our partnership arrangement, the Consortium stands ready to assist Community in the passage of local ordinances, support of state legislation and/or communicate with local law enforcement agencies to enhance prosecution of those citizens receiving unauthorized signals.

The Consortium is well aware of the provisions of the Cable Act and the complexities caused by it. However, we are confident that through the assistance of our elected representatives, the FCC will act favorably upon any reasonable waiver request for time deadlines while the operator and the Consortium are working towards a mutually-beneficial resolution. The Consortium will be contacting our representatives in Washington to insure the support and availability should such assistance be necessary.

Should your FCC counsel determine that some legal action by the franchising authorities is necessary in this regard, please have counsel coordinate with Peter Epstein, Consortium counsel at (617) 951-9909.

I believe the Consortium has made a good faith effort to identify compliance measures other than scrambling at a reasonable cost to the company and its subscribers. Accordingly, as we discussed at our meeting, the Consortium would be extremely disappointed should Community TV begin scrambling before all other avenues have been thoroughly examined.

We look forward to a timely response to our inquiries. It is our hope that this issue can be resolved to the mutual benefit of Community TV and its subscribers, so we may then focus our energies upon the upcoming franchise renewal process.

LAKES REGION CABLE TELEVISION CONSORTIUM



David R. Caron
Co-Chair

COMMUNITY TV CORP.

408 Union Ave.
Laconia, N.H. 03246

603-524-4425

December 29, 1993

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JAN 10 1994

FCC MAIL ROOM

David R. Caron, Co-Chairman
Lakes Region Cable Television Consortium
47 Cherry Valley Road
Gilford, N.H. 03246

Re: Alternate Approaches to Anti-Buy-Through

Dear Mr. Caron:

I regret not being able to respond to your letter earlier, but the holiday season has added to the work-load in our own offices as well as making it difficult to reach some of the people we wanted to talk to. We have no electronic engineers on our staff so we rely on outside experts for advice on technical matters. Of course, we usually make a point of testing new equipment or devices locally before a major change and we also talk to other cable companies with similar problems and take their experiences into account.

Until the advent of HBO and other Premium Programming in the mid-1970's, cable television companies offered potential subscribers a choice of receiving all signals available or none. The technology employed by the industry since it began has always been to send all signals out from a head-end and a new customer, once connected to the companies' cables, receive every signal. Since not every subscriber was willing to pay an extra fee for HBO, etc, some form of security to make Premium signals unwatchable was necessary. "Trapping" was one of the early methods tried.

The troubles encountered led almost immediately to the development of scrambling. Although more expensive than trapping, the vast majority of cable companies in the U.S. and abroad promptly turned to scrambling (which remains the industry standard). When Community TV introduced HBO in 1979, we likewise chose scrambling because it was more secure, more reliable and more cost-effective. In 1989, we decided to upgrade to one of the more secure scrambling technologies that had been developed to combat the high degree of signal theft being experienced. "Pirate boxes" were advertised in newspapers and magazines. Recently, our national trade association forwarded the names of 24 individuals with addresses in towns we serve who had purchased "pirate" boxes from a firm apprehended by police (Sales and use of such devices are a crime both Federally and in most states). "Boxes" stolen from us during the 70's were being sold in bars and elsewhere.

Our new converter/decoders also had two-way capability to serve the rapidly rising demand for Impulse Pay per View programming and by 1993 a majority of our subscribers were using the "new" converters. Of course, our head-end had to be completely re-equipped with the computers and other new electronics required. Our computer accounting software also had to be upgraded to interface with the new converter system. A substantial investment was involved in carrying out these improvements. Obviously, the newly installed system does not require additional facilities such as traps or interdiction to function as designed.

Turning to the specific difficulties trapping creates:

1. **Security.** There is no way to detect a non-functioning trap which fails to block signals. For example, a near-by lightning strike or a power surge can "unblock" a trap without leaving any mark. Checking within the house is the only sure way of knowing the trap is working. Similar trap failures can also arise from low temperatures such as 10 below zero. Spontaneous "drifting" also occurs from time to time. And, of course, traps are easily disabled by people climbing the pole and either removing the trap or, by more sophisticated individuals who bore out the center of the trap and replace it, looking untouched. A tap audit in December of traps in Laconia found 1 out of every 10 traps in use had been tampered with-an average consistent with those reported by our trade organizations from time to time.
2. **Signal Quality.** Each trap inserted in a house connection reduces signal strength. Such loss is greatest in adjacent channels, but it affects the entire spectrum to some degree. In the higher frequencies, the effect is so strong as to make the use of traps undesirable. Picture quality suffers as a result and often signals are degraded enough to bring them below FCC minimum standards for signal quality.
3. **Administrative Drawbacks.** A technician must drive to the subscriber's residence each time a trap is installed, changed or added, inspected and/or removed. Each time additional unscrambled channels or new services are offered additional traps must be put in place. The cost of such change would have to be borne by the "Broadcast Service" subscriber. The "benefits" if any (that is, the results of not scrambling the "Satellite Service" signals would flow to other individuals who would have no additional expense.

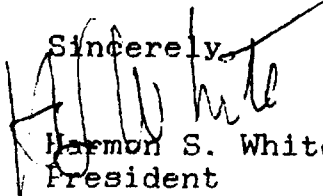
4. FCC Regulations. The additional investment required for trapping is not recoverable as we understand current FCC rate regulations. The allowable "bench-mark" rate was set by the FCC on an overall national basis and does not provide fees for this type of activity. There would be additional charges under the regulations for each "Broadcast Service" customer initialing a change of service since (as noted above) each would require a "truck roll" as compared to changes of service for "Satellite Service" subscribers whose changes are made in the office by computer. A further FCC issue arises in that the "anti buy-through" regulations forbid increases in subscriber fees in order to implement that regulation. That was the reason the prohibition was made effective immediately only for those systems with the necessary capability in place.

In 1985, we spent some time evaluating an interdiction technology. The benefits of having the decoder mounted on the pole outside the house were obvious. However, our consulting engineer (Argyle Bridgette, now residing in San Diego) found the system both more costly and less reliable than scrambling. We note in our trade press that the cable system in Cedar Rapids, IA recently ended a two year test of another company's interdiction device with a decision not to use it in rebuilding the system. The system would have required higher monthly fees as well as increasing electrical usage substantially.

We thank the Consortium for taking the time to study the Cable Act and its application to Community TV Corp. We believe discussion of the options open to us and to the towns and cities we serve under the law has been and will continue to be helpful. We particularly appreciate your offer to encourage local law enforcement officials to prosecute citizens receiving unauthorized signals. We look forward to meeting with you on January 6th.

With best wishes for the New Year.

Sincerely,


Harmon S. White
President

HSW/b